

## **Remarks**

Responsive to the Office Action mailed July 25, 2006, Applicant provides the remarks herein. Reexamination and allowance of the subject application are respectfully requested.

As an initial point, the Office Action mailed July 25, 2006 does not appear to reflect the preliminary amendment filed along with the instant continuation application. Particularly, in the preliminary amendment claims 1-54 were cancelled and new claims 55-71 were added. The preliminary amendment is included in the image file wrapper of the subject patent application in the Patent Application Information Retrieval database, and it is, therefore, believed to have been properly received and acknowledged. The Office Action only addresses cancelled claims 1-54, and not the claims added via the preliminary amendment. For the Examiner's convenience, this response includes a complete listing of the claims.

### ***Double Patenting***

Claims 1-54 were rejected on the grounds of non-statutory obviousness-type double patenting over claims 1-66 of US Patent No. 6,679,917 and over claims 1-13 of US Patent No. 6,520,964. Claims 1-54 have been cancelled herein rendering the rejection thereof moot.

### ***Rejections Under 35 USC §102***

Claims 1-54 were rejected under 35 USC §102(e) as being anticipated by Schwartz et al. (6,251,143). As noted above, claims 1-54 were cancelled via preliminary amendment. As such, the rejection of these claims is moot.

Claims 55-61 are generally directed at an implant comprising "a bone-facing distal surface, a proximal surface; and a protrusion extending at least partially around said implant, said protrusion formed as an extension of said distal surface and said proximal surface." Schwartz et al. teach bio-absorbable cartilage repair system including an

assembly of a bio-absorbable delivery unit and a porous bio-absorbable insert. The delivery unit has a central body and a plurality of extending flexible arms for supporting the porous insert. Col. 2, l. 41-62. In the various disclosed embodiments the assembly is shown configured with the porous bio-absorbable insert is shown wrapped around the delivery unit, and configured with the delivery unit inserted into the porous insert. None of the disclosed embodiments are understood to include the claimed features recited in claims 55-61.

Claims 62-64 are generally directed at an implant comprising “a bone-facing distal surface comprising a radial ring extending therefrom; a proximal surface; and a protrusion extending at least partially around a periphery of said implant, said protrusion comprising an extension from said radial ring and an extension from said proximal surface.” Schwartz et al. are not understood to disclose, or even suggest, an implant including, in part, a bone facing distal surface comprising a radial ring extending therefrom” and also including the various other aspects of the claimed invention.

Claims 65-68 are generally directed at an implant comprising “a proximal surface having a truncated circular shape.” Schwartz et al. discloses, in part, that the assembly “is polygonal in plan and interfitting – that is, disposed such that two assemblies 12 can be mounted in contiguous abutting contact in a side-by-side relationship.” Col. 8, l. 2-5. The polygonal interfitting configuration allows a plurality of assemblies to be used to cover or tile an area of bone. Col. 8, l. 1-11. In addition to the polygonal configuration, Schwartz et al. are understood to additionally teach circular and “8” shaped assemblies. As such, Schwartz et al. are not understood to teach the claimed invention.

Finally, claims 69-71 relate to a method of mapping a surface contour of an articular surface. Schwartz et al. are not understood to disclose any method of mapping a surface contour of an articular surface, let alone the claimed method. Accordingly, Schwartz et al. are not believed to be relevant to these claims.

In view of the foregoing, Applicant respectfully submits that the pending claims are believed to be patentable over Schwartz et al. An early allowance is respectfully requested.

Amendment Pursuant to 37 CFR 1.111

Serial No. 10/760,965

Response dated November 22, 2006

In reply to Office Action mailed October 31, 2006

Docket: STD00.01CIP2CON

Page 7 of 7

In the event of any fee deficiencies, or that additional fees are payable, please charge our Deposit Account No. 50-2121 as necessary.

Respectfully submitted,

/Edmund P. Pfleger/

Edmund P. Pfleger,  
Attorney for Applicant  
Registration No. 41,252  
GROSSMAN, TUCKER, PERREAU  
& PFLEGER, PLLC  
55 South Commercial Street  
Manchester, NH 03101  
Ph: 603-668-6560  
Fx: 603-668-2970